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Attorneys for Official Committee of  
Unsecured Creditors

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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In Re:	)	Bankruptcy Nos. 02-22906 GEC
	)	02-22907 GEC
	)	02-24874 GEC
SIMON TRANSPORTATION SERVICES	)	
INC., DICK SIMON TRUCKING, INC. and	)	(Chapter 11)
SIMON TERMINAL, LLC,	)	[SUBSTANTIVELY CONSOLIDATED]
	)	
Debtors.	)	Judge Glen E. Clark
	)	

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**UNSECURED CREDITORS' COMMITTEE OBJECTION TO PROOF OF CLAIM  
NO. 831 FILED BY THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**

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The Official Committee of Unsecured Creditors (the "Committee"), by and through its counsel, Fabian and Clendenin, hereby objects, pursuant to 11 U.S.C. § 502 and Rules 3003 and 3007 of the Federal Rules of Bankruptcy Procedure, to the Proof of Claim No. 831 filed by the

Texas Comptroller of Public Accounts in the above case. In support of the objection, the Committee states:

1. Debtors, Simon Transportation Services, Inc. and Dick Simon Trucking, Inc. filed their voluntary Chapter 11 petitions on February 25, 2002. Simon Terminal, LLC filed a voluntary Chapter 11 petition on March 26, 2002. The cases were jointly administered.

2. On April 22, 2002, the Court entered an order authorizing the sale of substantially all of the Debtors' assets to Central Refrigerated Service, Inc.

3. On March 5, 2002, the Court entered an order fixing August 26, 2002 as the deadline to file proofs of claim.

4. On March 12, 2003, the Court entered its *Order Confirming Amended Joint Plan of Liquidation* ("Confirmation Order") in the above jointly administered cases. Pursuant to the Amended Joint Plan of Liquidation the estates of the Debtors were substantially consolidated, and all property of Debtors vested in a consolidated estate (the "Estate") under the exclusive control of the Committee. The Committee was designated as the representative of the Estate pursuant to 11 U.S.C. § 1123(b)(3)(B) and given all necessary authority to administer the Estate, including the authority to object to claims. *See, Second Amended Joint Plan of Liquidation Dated December 27, 2002, ¶ 6.4.*

5. Based upon the foregoing, the Committee objects to the following claim:


**Claim No. 831 – Texas Comptroller of Public Accounts**

The Texas Comptroller of Public Accounts filed Claim no. 831 on August 12, 2002, asserting an unsecured priority claim pursuant to 11 U.S.C. § 507(a)(8) in the amount of \$2,186.15. The claim is for franchise taxes for the calendar year 2002.

The Committee objects to the claim on the basis that no franchise tax is due for the period described in the Proof of Claim. The Estate is eligible to file a “Texas Franchise No Tax Due Information Report” because the Debtors had a total taxable capital of less than \$40,000 and earned surplus of less than \$2,222. The Committee has prepared a tax return for the 2002 period, a copy of which is attached.

WHEREFORE, the Committee seeks entry of an order disallowing Claim No. 831 in its entirety, and for such other and further relief as the Court deems appropriate.

DATED this 18<sup>th</sup> day of September, 2003.

  
\_\_\_\_\_  
Peter W. Billings  
Gary E. Jubber  
FABIAN & CLENDENIN  
A Professional Corporation

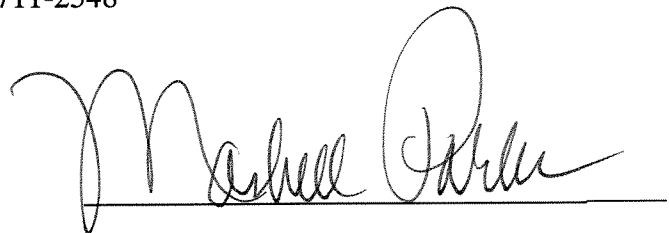
### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, postage fully prepaid, this 19<sup>th</sup> day of September, 2003.

United States Trustee  
9 Exchange Place, Suite 100  
Salt Lake City, Utah 84111

Weston L. Harris  
Parsons Kinghorn Peters  
111 East Broadway, 11<sup>th</sup> Floor  
Salt Lake City, UT 84111

Texas Comptroller of Public Accounts  
Richard Craig, Legal Counsel  
Office of the Attorney General  
Collection Division – Bankruptcy Section  
P.O. Box 12548  
Austin, TX 78711-2548

A handwritten signature in black ink, appearing to read "Michael Parker", is written over a horizontal line.

\* \* \* \* \*

Dick Simon (State Copy)  
Instructions for filing  
Form 05-141  
Texas Franchise No Tax Due Information Report  
for the year ended September 30, 2002

\* \* \* \* \*

Signature . . .

The original return should be signed and dated on page one  
by an authorized officer of the corporation.

Filing . . .

The original return should be filed on or before  
with the following:

Comptroller of Public Accounts  
111 E. 17th Street  
Austin, TX 78774-0100

No tax due . . .

There is no tax due for the current year.

This report is for the Report Year .

Comptroller  
of Public  
Accounts  
FORM  
05-141  
(Rev. 1-02/10)

Do Not Staple or Paper Clip

**TEXAS FRANCHISE NO TAX DUE  
INFORMATION REPORT  
-SHORT FORM-**

Please do not write in the space above

If you are filing this report as a final report and need a Certificate of Account Status for dissolution or to otherwise terminate the existence of this corporation, please check this box. ☒ X

a. Please check ONLY one box below to indicate the type of report being filed.

<input type="checkbox"/> 13108 Franchise	<input checked="" type="checkbox"/> 13148 Final Franchise
<input type="checkbox"/> 16108 Bank	<input type="checkbox"/> 16148 Final Bank

d. REPORT YEAR

PLEASE READ  
INSTRUCTIONS  
ON BACK.e. ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐h. ☒ PIR

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☐ F ☐ M

c. Taxpayer number

30117691219

f. Due date

g. Privilege period covered by this report

01/01/03 through 12/31/03

0010386036

j. Taxpayer name and mailing address

DICK SIMON TRUCKING, INC.  
C/O PETER BILLINGS, FABIAN & CLENDENIN  
215 SO. STATE, #1200  
SALT LAKE CITY, UT 84111

Mail to: COMPTROLLER OF PUBLIC ACCOUNTS  
111 E. 17th STREET  
AUSTIN, TX 78774-0100

☐ Check this box  
if your mailing  
address has  
changed.

YOU ARE ELIGIBLE TO USE THIS FORM TO FILE YOUR NO TAX DUE INFORMATION REPORT  
IF YOUR CORPORATION FOR THE ACCOUNTING PERIOD ON WHICH THIS REPORT IS BASED,

- had no gross receipts in Texas;

OR

- had gross receipts everywhere of less than \$150,000 (Item 2 and Item 3 must each be less than \$150,000.);

OR

- had total taxable capital less than \$40,000 (less than \$17,800 if this is an initial report) AND earned surplus (including officer and director compensation, if applicable) of less than \$2,222.00.

If you are eligible to use this form, complete, sign, and return it by the due date with your Franchise Tax Public Information Report, Form 05-102. If you are filing this report as your final franchise tax report, a Public Information Report is not required.

1. Enter the beginning and ending  
dates of your accounting period

Beginning date

MONTH	DAY	YEAR
10	01	01

Ending date

MONTH	DAY	YEAR
09	30	02

2. Gross receipts everywhere for taxable capital  
(Leave blank if this is a final report.)

\$ .00

3. Gross receipts everywhere for taxable earned surplus

\$ 142,696,435.00

Print or type name (Officer, director or duly authorized agent)

Daytime phone (Area code &amp; number)

801 924-7000

sign  
here

Officer, director or duly authorized agent

Date

TO FILE YOUR NO TAX DUE INFORMATION REPORT, DETACH AND RETURN THE TOP PORTION ONLY.

Keep a copy for your records.